



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 12, 2006

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 12, 2006 at 6:30 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Lynn J. Rogers	President
Dale R. Dukes	Vice President
George B. Cole	Member
Finley B. Jones, Jr.	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
James D. Griffin	County Attorney

M 602 06 Amend and Approve Agenda

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the Agenda, as follows:

- delete Approval of Minutes
- delete "Proclamation – National Alcohol and Drug Addiction Recovery Month"
- delete "Wastewater Agreement – Lands of 274 Associates"
- delete "Lease – LifeNet – Office and Hangar Space"

and; to approve the Agenda, as amended.

Motion Adopted: 4 Yea, 1 Absent.

**Vote by Roll Call: Mr. Cole, Absent; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

Corre- spondence

Mr. Griffin read the following correspondence:

**LYNDA TARBURTON, CO-DIRECTOR, MILFORD SENIOR CENTER,
MILFORD, DELAWARE.
RE: Letter in appreciation of grant.**

NANCY DODD, CENTER DIRECTOR, HARBOUR LIGHTS CHEER SENIOR CENTER, LEWES, DELAWARE.

RE: Letter in appreciation of grant.

ANNE YARBROUGH, DIRECTOR, MILTON HISTORICAL SOCIETY, MILTON, DELAWARE.

RE: Letter in appreciation of grant.

**Corre-
spondence
(continued)**

DR. GARY WRAY, PRESIDENT, FORT MILES HISTORICAL ASSOCIATION, LEWES, DELAWARE.

RE: Letter in appreciation of grant.

ROBERT J. VOSHELL, CAPITAL CAMPAIGN CHAIRMAN, GREATER MILFORD BOYS & GIRLS CLUB, MILFORD, DELAWARE.

RE: Letter in appreciation of grant.

PRESTON AND KATHLEEN SCHELL, LEWES, DELAWARE.

RE: Letter in appreciation of grant for the “*Use Your Head*” Bike Safety Fair.

ANN GORRIN, SUSSEX COUNTY COORDINATOR, READ ALOUD DELAWARE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

FIRST STATE ANTIQUE TRACTOR CLUB.

RE: Letter in appreciation of grant.

NANTICOKE RIVERFEST 2006, SEAFORD, DELAWARE.

RE: Letter in appreciation of grant.

ARLENE S. LITTLETON, EXECUTIVE DIRECTOR, CHEER, SUSSEX COUNTY SENIOR SERVICES, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the transportation funds granted by the Council to CHEER and other senior programs.

SUSAN WELCH, GREENWOOD CHEER CENTER, GREENWOOD, DELAWARE.

RE: Letter in appreciation of the transportation funds granted by the Council.

MIKE LOVE, SUSSEX COUNTY SAFE KIDS COALITION, UNIVERSITY OF DELAWARE, SUSSEX COUNTY COOPERATIVE EXTENSION, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council’s support of the 2006 Sussex County Safe Kids Day.

CONGRESSMAN MICHAEL CASTLE, CONGRESS OF THE UNITED STATES, HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

RE: Resolution in support of the establishment of the Captain John Smith Chesapeake National Historic Trail.

ILEANA M. SMITH, VICE PRESIDENT AND CAMPUS DIRECTOR, DELAWARE TECHNICAL & COMMUNITY COLLEGE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's support of the 2006 Starry Starry Night Gala.

**Corre-
spondence
(continued)**

TAMMI THOMPSON, CITY OF SEAFORD, SEAFORD, DELAWARE.

RE: Letter in appreciation of grant.

MILTON HISTORICAL SOCIETY, MILTON, DELAWARE.

RE: Letter in appreciation of grant.

Mr. Cole joined the meeting.

**Newspaper
Article**

Mr. Dukes read excerpts of an article in the News Journal on Sunday, September 10, 2006 entitled "Fla. county plans to recycle its landfill by vaporizing garbage."

**9/11
Memorial
Ceremony/
Congress-
man
Castle's
Comments**

Mr. Stickels reported that, at the County's September 11th Memorial Ceremony, Jeff Dayton, Congressman Castle's Chief of Staff, presented a copy of a Statement of Congressman Michael N. Castle in Remembrance of the 5th Anniversary of September 11, 2001 which was made a part of the Congressional Record, *Proceedings and Debates of the 109th Congress, Second Session*, as follows:

"As the crowd gathers around The Circle in Georgetown today, I would like everyone to look up at the American flag waving in the sky and remember what it symbolizes; to remember the values and ideals of democracy that we hold so dear here in the United States and know that our Country is full of men and women who exemplify those traits; therefore, let us continue to honor the men and women who help us fight terrorism and who strive to keep us safe everyday."

**Appoint-
ment of
Finance
Director**

Mr. Baker recommended that the County Council appoint Susan M. Webb to the position of Finance Director. Mrs. Webb has worked as Director of Accounting for the County since 1993. By Delaware law, Sussex County Council is responsible for appointing the County Administrator and Finance Director.

**M 603 06
Appoint
Finance
Director**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, that the Sussex County Council appoints Susan M. Webb as Finance Director for a period of three years commencing on November 1, 2006 at an annual salary of \$75,000 for the remainder of Fiscal Year 2007; this appointment shall be extended annually upon the anniversary date of the original appointment unless the majority of the Council votes, in public session, not to extend this

appointment; if the Finance Director wishes to terminate her employment hereafter, that termination shall not occur with less than six months notice, in writing.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Personnel
Appoint-
ments**

Mr. Baker announced that the following personnel appointments have been made:

- **Kathy Roth - Budget and Cost Manager**
- **Gina Jennings – Director of Accounting**
- **Chris Parker – Finance Reporting Manager**

**M 604 06
Adopt
Procla-
mation**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt the Proclamation entitled “PROCLAIMING MONDAY, SEPTEMBER 25, 2006 AS *FAMILY DAY*”.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**M 605 06
Adopt
Procla-
mation**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt the Proclamation entitled “PROCLAIMING SEPTEMBER 15, 2006 AS *RESOURCE CONSERVATION & DEVELOPMENT AREA DAY IN SUSSEX COUNTY, DELAWARE*”.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Local Law
Enforce-
ment
Grants**

Mr. Godwin presented requests for funding through the Revenue Sharing for Local Law Enforcement Grant Program:

Greenwood	\$24,351.00	2007 Dodge Durango including emergency lights purchase and installation
Laurel	\$ 3,548.25	Vehicle markings; mobile radio with related equipment
Lewes	\$ 9,430.00	4x4 Gas Utility Vehicle

	Selbyville	\$25,000.00	2006 Dodge Charger (including painting car)
	Bethany Beach	\$25,000.00	2007 Dodge Charger with accessories
	Georgetown	\$25,000.00	Lease/Purchase 3 equipped police vehicles
(continued)	Rehoboth Beach	\$24,094.00	2007 Chevy Silverado
M 606 06	A Motion was made by Mr. Jones, seconded by Mr. Cole, to approve the		
Approve	Local Law Enforcement Grants, as presented.		
Local Law			
Enforce-	Motion Adopted:	5 Yea.	
ment	Vote by Roll Call:	Mr. Phillips, Yea; Mr. Cole, Yea;	
Grants		Mr. Dukes, Yea; Mr. Rogers, Yea;	
		Mr. Jones, Yea	
Wastewater	Mr. Godwin presented wastewater agreements for the Council's		
Agreements	consideration.		
M 607 06	A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the		
Execute	recommendation of the Sussex County Engineering Department, for Sussex		
Agreements/	County Project No. 81-04, Agreement No. 603, that the Sussex County		
The	Council execute a Construction Administration and Construction		
Preserve of	Inspection Agreement between Sussex County Council and Muddy Neck,		
Jefferson	L.L.C. , for wastewater facilities to be constructed at The Preserve of		
Creek	Jefferson Creek, located in the South Bethany Beach Sanitary Sewer		
	District.		
	Motion Adopted:	5 Yea.	
	Vote by Roll Call:	Mr. Phillips, Yea; Mr. Cole, Yea;	
		Mr. Dukes, Yea; Mr. Rogers, Yea;	
		Mr. Jones, Yea	
M 608 06	A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the		
Execute	recommendation of the Sussex County Engineering Department, for Sussex		
Agreements/	County Project No. 81-04, Agreement No. 710, that the Sussex County		
Seagrass	Council execute a Construction Administration and Construction		
Planta-	Inspection Agreement between Sussex County Council and Centex Homes		
tion	for wastewater facilities to be constructed in Seagrass Plantation, Phase II,		
	located in the West Rehoboth Sanitary Sewer District.		
	Motion Adopted:	5 Yea.	
	Vote by Roll Call:	Mr. Phillips, Yea; Mr. Cole, Yea;	

**Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

M 609 06 **A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the**
Execute **recommendation of the Sussex County Engineering Department, for Sussex**
Agreements/ **County Project No. 81-04, Agreement No. 708, that the Sussex County**
The Refuge **Council execute a Construction Administration and Construction**
at Dirickson **Inspection Agreement between Sussex County Council and The Refuge at**
Creek **Dirickson Creek, Phase 8, for wastewater facilities to be constructed in the**
M 609 06 **Fenwick Island Sanitary Sewer District.**

(continued)

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

(Mr. Cole was out of the room during the vote.)

Hangar **Mr. Masten, Director of Economic Development, advised that Larry Kelley**
Lease/ **is requesting that his previously approved lease for one of the corporate**
Larry **hangar sites at the Sussex County Airport reflect a name change from**
Kelley **Larry Kelley to Rag Wings & Radials Aircraft Leasing, LLC. Mr. Masten**
 stated that the terms of the lease would remain the same.

M 610 06 **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the**
Approve **Sussex County Council approves a name change for Corporate Hangar No.**
Name **4 at the Sussex County Airport from Larry Kelley to Rag Wings & Radials**
Change/ **Aircraft Leasing, LLC, consisting of Larry Kelley and Lorie Thomsen,**
Hangar **Partners.**

Lease/

Larry

Kelley

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

Proposed **Mr. Archut, Assistant County Engineer, requested permission to circulate**
Angola **petitions for the Proposed Angola Neck Sanitary Sewer District. He**
Neck **reported that requests have been received from residents in the Angola**
SSD/ **Neck area requesting sewer service. A preliminary meeting was held in the**
Circula- **Angola Neck area on June 14, 2005 to determine if there was any interest in**
tion of **central sewer service. Over 200 people attended the meeting and the**
Petitions **attendees were in support of sewer service. He noted that the area is a part**
 of the Inland Bays Planning Area. He further noted that the entire Angola
 Neck area would not be included. The three major communities that are
 proposed to be included are: Angola by The Bay, Bay Ridge Woods, and
 Woods on Herring Creek. Mr. Archut reported that Angola Estates and
 Angola Beach Estates have also expressed interest in sewer service and they

have also been included.

Mr. Archut advised that there have been discussions with the Homeowners Association of the Woods on Herring Creek, an area where there is a failing sewer system. The Association has taken over the system and they are having to have it pumped daily to make it operational. Mr. Archut reported that the Association has been told that if the referendum is successful, the County would look at taking over the pumping operations. They were also told that the County would not be interested in maintaining the existing drain fields.

Proposed
Angola
Neck
SSD
(continued)

Mr. Archut advised that, pending a successful referendum vote, the proposed schedule would be as follows: a public hearing to be scheduled in early 2007; a referendum to be scheduled sometime later in 2007; and sewer to (possibly) be available in the area in 2010.

M 611 06
Approve
Circula-
tion of
Petitions/
Angola
Neck
SSD

A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the Sussex County Council approves the circulation of petitions to submit the question of organizing a sanitary sewer district for the Angola Neck area, as presented on September 12, 2006, to a referendum vote.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

Millville
Expansion
of the
BBSSD/
Beaver
Dam
Escrow
Agreement
and
Whitman
Requardt
& Associates
Contract

Mr. Archut, Assistant County Engineer, presented Amendment No. 1 to the Beaver Dam Escrow Agreement and Amendment No. 35 to a contract with Whitman, Requardt & Associates regarding the Millville Expansion of the Bethany Beach Sanitary Sewer District.

The Council previously approved an Escrow Agreement for the design of the regional facilities to serve the following areas: Fairway Village, Barrington Park, Millville by the Sea, and Dove's Landing. He noted that the developers financed, through an Escrow Agreement, the design of regional infrastructure to serve the area. He further noted that the design is essentially complete and the plans will be turned over to the developers so that they can move forward to the construction phase.

Mr. Archut requested the Council's approval for an amendment to the Escrow Agreement to include the costs to cover inspection and contract administration, including a contract with Whitman, Requardt & Associates (WR&A) for \$749,605.00 to do the contract administration and project representation.

Mr. Archut told the Council that the developers have already deposited the funding to cover the costs into the Escrow Account.

M 612 06
Execute
Amendment
to Beaver
Dam Escrow
Agreement
and its
Contract
w/WR&A

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the County Engineering Department, that the Sussex County Council authorizes its President to execute Amendment No. 1 to the Escrow Agreement for Beaver Dam and its Contract with Whitman, Requardt and Associates, LLP, for Construction Administration and Resident Project Representation for Beaver Dam Regional Pump Station, Gravity Sewer and Force Main, MPS #6 and State Route 26, subject to the approval of the Assistant County Attorney.

M 612 06
(continued)

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

Bay Colony
& Fairway
Villas

Mr. Izzo, County Engineer, presented a Balancing Change Order and Substantial Completion for the County's contract with Johnston Construction Corporation for the Bay Colony and Fairway Villas Pumping Stations 251 and 252 Improvements Project.

M 613 06
Grant
Substantial
Completion
for Bay
Colony &
Fairway
Villas
Pumping
Stations
Improve-
ments

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, and the County Engineering Department, that the Sussex County Council grants Substantial Completion effective June 23, 2006 to Johnston Construction Corporation for Sussex County Project No. 05-03, Bay Colony and Fairway Villas Pumping Stations 251 and 252 Improvements, and further; that Balancing Change Order No. 1 be approved in the credit amount of \$870.00, thereby decreasing the contract amount from \$217,554.00 to \$216,684.00 and increasing the contract time by forty-nine days, and further; that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

Consultant
Selection
Process/
Architec-
tural
Services for
Sussex
County
Buildings

Mr. Izzo discussed the selection of a consultant to perform architectural services for the capital projects projected to occur over the next five years: Administration Office Annex and Record Retention Facilities, addition to the South Coastal Library, completion of the second story of the Milton Library, and a new Greenwood Library. Mr. Izzo reported that a Request for Proposals (RFP) was advertised in June 2006; responses were received from sixteen firms. The Consultant Selection Procedure was followed and the sixteen firms were short-listed to five firms, who were interviewed and ranked, as follows: (1) Studio Jaed, (2) Rubeling, (3) Tetra Tech, (4) Becker Morgan, (5) DBF.

Mr. Izzo noted that Studio Jaed, the No. 1 ranked firm, is located in Wilmington and Dover, Delaware.

Mr. Izzo noted that, from previous experience dealing with architects, the County felt strongly that a firm was needed that has both architects and engineers. Also, a Delaware firm was preferred.

Consultant Selection Process (continued) **Mr. Izzo reported that the five members of the selection team were Carol Fitzgerald, County Librarian; Julie Cooper, Project Engineer; Russell Archut, Assistant County Engineer; and Andrea Wall, Contract Administrator.**

Mr. Izzo advised, if the recommended firm is approved by the Council, a contract would be negotiated for the first project on the schedule.

M 614 06 Select Studio Jaed to provide Engineering and Architectural Services **A Motion was made by Mr. Jones, seconded by Mr. Cole, based upon the recommendation of the Consultant Selection Team that Studio Jaed of Wilmington, Delaware, be selected to provide Engineering and Architectural Services for building projects for a five-year period effective this date.**

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

Delta Airport Consultants/ Revised Contract Amendment **Mr. Hickin, Project Engineer, discussed two items related to the Airport Crosswind Runway 10-28 Reconstruction Project. He noted that they are both covered by a FAA Grant received two weeks ago. Mr. Hickin noted that in April 2006, the Council approved Amendment No. 19 to the Contract with Delta Airport Consultants to repackage the design of the runway to keep the cost under \$5 million, to do the bidding services, and to do the construction administration services for 45 days. The design has now been repackaged into three bid alternates for Phase I. Mr. Hickin reported that the seven (7) bid results came in lower than expected and the FAA provided more money than expected, thus, permitting the County to afford the second alternate (\$597,140.00) which includes the demolition of the concrete and associated structures at the airport; this would extend the contract time from the original 45 days to 150 days. Mr. Hickin reported that Dixie Construction Company was the lowest responsive bidder on all three alternate bids.**

Mr. Hickin requested approval of Amendment No. 20, which changes the construction and administration time to 150 days for a cost of approximately \$38,000.00.

M 615 06
Approve
Contract
Amend-
ment/
Delta
Airport
Consultants

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 20 to the Engineering Agreement between Sussex County and Delta Airport Consultants, Inc. to rehabilitate Crosswind Runway 10-28 (construct) – Phase I (Repackage Design, Bidding & Construction Phase Services) for the Sussex County Airport, which increases the original contract amount by \$37,897.00, pending approval from the County Finance Director, DelDOT and/or the FAA.

M 615 06
(continued)

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 616 06
Award Bid/
Reconstruct
Runway
10-28/
Phase I
Con-
struction

A Motion was made by Mr. Dukes, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department and its Airport Consultants, Delta Airport Consultants, Inc., that Sussex County Project No. 05-02, Reconstruct Runway 10-28, Phase I Construction, be awarded to the lowest responsive bidder, Dixie Construction Company, Inc., at the bid amount of \$597,140.00, pending FAA approval.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

Marine
Farm's
Request
for
Revised
Conditions/
Ordinance
No. 1770

Mr. Lank, Director of Planning and Zoning, referred to Ordinance No. 1770 (Change of Zone No. 1554) filed on behalf of Marine Farm, L.L.C.

Mr. Lank stated that on August 11, 2006 a letter was received from Frank Kea, Director of Operations of Marine Farm, LLC, regarding several of the conditions on their MR-RPC application which was approved on April 19, 2005.

Mr. Lank stated that the Jimtown property owners, by submission of a Petition, are declining any/all of the proposed "improvements" and that, through numerous letters and public testimony, they have stated that they do not want any of the improvements to be forced on the residents.

In response to the comments and Petitions of the Jimtown property owners, Marine Farm, L.L.C. is requesting the Council's authorization to delete/modify the conditions of Ordinance No. 1770 so that the wishes of the "Concerned Citizens of Jimtown" as stated in their petition to Sussex County are met.

Mr. Lank explained that in their letter, Marine Farm, LLC requested that the following conditions of Ordinance No. 1770 be deleted/modified:

Delete 17.A – Sewer Improvements

Delete 17.B – Water Improvements

Delete 17.C – Street Lights

Delete 17.D – Sidewalks

Delete all but the first sentence of 17.E – Jimtown Road Improvements

The first sentence of 17.E states that “Marine Farm, L.L.C. will provide at its sole cost and expense all roadway improvements required by DelDOT as indicated in the final approval letter issued by DelDOT including all Jimtown Road improvements.”

**Marine
Farm’s
Request
for
Revised
Conditions/
Ordinance
No. 1770
(continued)**

Delete 17.H – Other

In his letter, Mr. Kea stated that “We continue to abide by our commitment to improve Jimtown Road in accordance with DelDOT requirements which include only topping the road at this time.”

Mr. Lank read the Petition of the Jimtown Property Owners into the record.

Mr. Cole expressed concern that the Jimtown property owners may be misinformed; that they may not understand the proposed improvements; and that they may have signed the petition without fully understanding the improvements that have been offered.

Mr. Stickels noted that there would be a cost for improvements to sewer and the property owners are trying to delay sewer coming to their area.

Mr. Lank read a portion of Condition No. 17 (A) Sewer –

“At it’s sole cost and expense, Marine Farm, LLC will treat such sewerage and the home, lot or parcel owners will be charged no tap or connection fee nor will any resident of Jimtown be required to hook up to the system until and if he or she chooses. Each resident of Jimtown that chooses to hook up to the Marine Farm sanitary sewer system, with such hook-up being solely at the discretion of each individual property owner, will pay the same rate for treatment that all other Marine Farm residents pay as governed by the Delaware Public Service Commission. At its sole cost and expense, Marine Farm, LLC will dispose of treated Jimtown sewerage on the Marine Farm disposal site.”

Mr. Cole emphasized that no one would be forced to hook-up under the original conditions.

Mr. Stickels advised that DNREC is going to start inspecting individual septic systems.

The Council discussed whether or not a public hearing should be held on

the request to amend the conditions on Ordinance No. 1770

Mr. Kea stated that Marine Farm, LLC did not initiate the request to modify/delete the conditions and that he obtained a copy of the Petition from the Planning and Zoning Department. Mr. Kea stated that he does not know how many of the 38 property owners have signed the Petition.

In response to questions from Mr. Griffin, Mr. Kea stated that he attempted to notify the residents of Jimtown by phone that this issue was being placed on the September 12th County Council agenda for discussion.

**Marine
Farm's
Request
for
Revised
Conditions/
Ordinance
No. 1770
(continued)**

Mr. Kea stated that it was not his intent to try and get a decision from the Council at this meeting.

It was noted that Mike Miller, a resident of Jimtown, was a big proponent of the issues outlined in Condition No. 17 and that he nor his family have signed the petition. It was further noted that 100 percent of the property owners have not signed the petition.

**M 617 06
Authorize
Public
Hearing/
Marine
Farm's
Request to
Revise
Conditions/
Ordinance
No. 1770**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, that the Sussex County Council authorizes a public hearing to be advertised and held to hear the views of Marine Farm, LLC and the residents of Jimtown to get clarification on the request to modify/delete portions of Condition No. 17 (Ordinance No. 1770).

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Notifica-
tion of
Hearing**

Mr. Griffin stated that all of the Jimtown residents need to be notified of the Public Hearing and that each person notified should receive a copy of the request that has been filed with the Council.

**Old
Business/
C/Z
No. 1600**

The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.53 ACRES, MORE OR LESS" (Change of Zone No. 1600) filed on behalf of Bayville Shores Associates, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on August 10, 2006 at which time they recommended that the application be approved.

The County Council held a Public Hearing on this application on August

22, 2006 at which time they deferred action and left the record open until September 12, 2006 for the Applicant to record their proposed Declaration of Restrictions.

Mr. Lank, Director of Planning and Zoning, announced that the Declaration of Restrictions have been recorded (in Deed Book 3358, Page 251).

**Old
Business/
C/Z
No. 1600
(continued)**

Mr. Griffin advised that he has reviewed the Declaration of Restrictions, which state that the Grantor agrees that the lands cannot be improved by any use authorized by HR-1 zoning except for townhouses and that the use is further restricted to a maximum of 17 residential structures, with related parking and driveways.

**M 618 06
Adopt
Ordinance
No. 1872
(C/Z
No. 1600)**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1872 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.53 ACRES, MORE OR LESS” (Change of Zone No. 1600) filed on behalf of Bayville Shores Associates, L.L.C.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Old
Business
(C/U
No. 1649)**

The Council discussed the application of Ronald W. Morgan entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GARAGE AND PARKING OF TRUCKS AND TRAILERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.54 ACRES, MORE OR LESS” (Conditional Use No. 1649).

The Planning and Zoning Commission held a Public Hearing on this application on April 27, 2006 at which time they deferred action. On May 11, 2006, the Commission recommended that the application be denied.

The County Council held a Public Hearing on this application on May 16, 2006 at which time they deferred action.

Mr. Lank distributed a list of Proposed Conditions that were previously submitted to the Council.

M 619 06

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the

**Adopt
Proposed
Ordinance
(C/U
No. 1649)
(Denied)** **Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GARAGE AND PARKING OF TRUCKS AND TRAILERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.54 ACRES, MORE OR LESS” (Conditional Use No. 1649) filed on behalf of Ronald W. Morgan.**

**M 619 06
(continued)** **Motion Denied: 5 Nay.**
Vote by Roll Call: Mr. Phillips, Nay; Mr. Cole, Nay;
Mr. Dukes, Nay; Mr. Rogers, Nay;
Mr. Jones, Nay

Requests Mr. Baker presented grant requests for the Council’s consideration.

M 620 06 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give
Community \$1,500.00 from Mr. Rogers’ Community Investment Grant Account to the
Investment Beebe Medical Center for the Annual Thanksgiving Ball Fundraiser.
Grant

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 621 06 A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$5,000.00
Community from Mr. Cole’s Community Investment Grant Account to the Rehoboth
Investment Beach Historical Society for the Rehoboth Beach Museum Project.
Grant

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 622 06 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give
Community \$5,000.00 (\$2,500.00 each from Mr. Jones’ and Mr. Rogers’ Community
Investment Investment Grant Accounts) to the Greater Milford Boys & Girls Club of
Grant Delaware.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 623 06 A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give
Community \$5,000.00 (\$3,000.00 from Mr. Phillips’ and \$2,000.00 from Mr. Dukes’
Investment Community Investment Grant Accounts) to the Boys & Girls Club of

Grant **Western Sussex (Laurel) for operating expenses.**

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea**

Tabled **The grant request from Lewes Canalfront Park was tabled.**
M 624 06 **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$200.00**
Council- **from Mr. Rogers' Councilmanic Grant Account to the H. O. Brittingham**
manic **Elementary School (HOB) PTO for the *PARTNERS* Project.**
Grant

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea**

Tabled **The grant request from the Zwaanendael Women's Club was tabled since**
the funding was approved in last year's budget.

M 625 06 **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00,**
Youth **\$100.00 from each Youth Activity Grant Account to the Delaware**
Activity **Diamonds Softball Team for food, travel, and lodging costs.**
Grant

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea**

Introduction **Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Ordinance **AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE PARK**
WITH MEDICAL, PROFESSIONAL, AND RETAIL BUILDINGS TO BE
LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,
CONTAINING 25.3896 ACRES, MORE OR LESS" (Conditional Use No.
1716) filed on behalf of Andrew Lubin. The Proposed Ordinance will be
advertised for Public Hearing.

Introduction **Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN AR-1**
Ordinance **AGRICULTURAL RESIDENTIAL DISTRICT FOR A STATE HEALTH**
CARE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF
LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX
COUNTY, CONTAINING 701.59 ACRES, MORE OR LESS" (Conditional
Use No. 1717) filed on behalf of the State of Delaware. The Proposed

Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance (continued)	Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL SEWER TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.91 ACRES, MORE OR LESS” (Conditional Use No. 1718) filed on behalf of Artesian Water Company, Inc. The Proposed Ordinance will be advertised for Public Hearing.
Notice of Committee Meeting	Mr. Baker announced that the Sussex County Advisory Committee for the Aging and Adults with Disabilities will meet on September 18, 2006 at 10:00 a.m. at the County’s West Complex.
Illegal Signs Violations/ Enforcement	Mr. Cole questioned the status of what the County is doing about illegal signs. Mr. Rogers responded that information is being gathered. Mr. Lank stated that all of the text in the County Code Book relating to signs needs to be reviewed, as well as information received on electronic signs. Mr. Cole referred to the County’s policy of investigating violations on a complaint-driven basis and stated that complaint-driven enforcement does not work in all matters. Mr. Cole stated that the number of illegal signs in the County is growing and nothing is being done about it.
Public Comments	Phyllis Kane, a resident of the Woods on Herring Creek, thanked the Council for approving the petitions for the Proposed Angola Neck Sanitary Sewer District.
M 626 06 Recess	At 8:36 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Jones, to recess for five minutes. Motion Adopted by Voice Vote.
Reconvene	Mr. Rogers called the Council back into session at 8:50 p.m.
Public Hearing (C/U No. 1677)	A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A REGIONAL WATER DISTRIBUTION FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.18 ACRE, MORE OR LESS” (Conditional Use No. 1677) filed on behalf of Tidewater Utilities, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on August 24, 2006 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 24, 2006 for additional information on the application, correspondence received and the Public Hearing before the Commission.)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the Council's record.

An Exhibit Booklet was distributed to the Council.

**Public
Hearing
(C/U
No. 1677)
(continued)**

Tim Willard, Attorney, was present with Jerry Esposito and Bruce Patrick of Tidewater Utilities, Inc. They stated that they are proposing two 30,000 gallon ground level water tanks that would be located horizontally above-ground; that they would be located on a site that has already been approved in the Ellis Point RPC; that Ellis Point was approved with a 75,000 gallon water storage facility to serve the Ellis Point project only; that these tanks are proposed to support Ellis Point and three other nearby communities; that this application is for a temporary conditional use to provide more water storage and a pressure booster station for fire protection for the four communities; that the long-term proposal (five years) is for an elevated tank; and that the Applicant would agree to the following conditions:

- A five-year limitation on the conditional use.**
- Screening from neighboring properties.**
- Two water storage tanks shall be permitted with each having a capacity of 30,000 gallons.**
- The tank shall be approximately the following size: (a) 10.5 feet in diameter, (b) 46 feet in length, and (c) 12 feet maximum height.**
- Lighting shall be limited to normal security lights.**
- The tanks shall be painted a neutral green and lettering shall be limited to identification of the water company "Tidewater Utilities, Inc."**
- Structural design of the water tanks shall comply at a minimum with American Water Works Association (AWWA) standards.**

There were no public comments and the Public Hearing was closed.

**M 627 06
Defer
Action on
C/U
No. 1677**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to defer action on Conditional Use No. 1677, filed on behalf of Tidewater Utilities, Inc.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Public
Hearing
(C/U
No. 1694)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR-RPC GENERAL RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED

COMMUNITY FOR AN ELEVATED WATER STORAGE TANK/PUBLIC UTILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 18,234 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1694) filed on behalf of Tidewater Utilities, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on August 24, 2006 at which time they deferred action.

**Public
Hearing
(C/U
No. 1694)
(continued)**

(See the minutes of the meeting of the Planning and Zoning Commission dated August 24, 2006 for additional information on the application, correspondence received and the Public Hearing before the Commission.)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

An Exhibit Booklet was distributed to the Council.

Tim Willard, Attorney, was present with Jerry Esposito and Bruce Patrick of Tidewater Utilities, Inc. and Chuck Hauser of Davis, Bowen & Friedel. They stated that the application is for the construction of an elevated water storage tank to serve the Angola District; that the tower would be built approximately 160 feet high; that the tank is designed to contain 400,000 gallons of water; that the tower would be located on Camp Arrowhead Road, centrally located in the Angola District near the water main that already exists there; that currently, the Angola District does not have any water storage tanks in the system; that it is located off of a stormwater site in a forested area; that the tank is necessary to maintain adequate flow and pressure; that the communication antennas on the tower would be no higher than the tower; and that 50 percent of the antenna leases would be reserved for governmental use.

Mr. Willard proposed the following conditions:

- **Maximum capacity of tank shall be 400,000 gallons.**
- **Maximum height of the tower shall be 160 feet and the design shall be a hydrosphere.**
- **Lighting at the tower shall be limited to normal security lights and safety lights required by the FAA.**
- **The tower shall be painted a sky neutral color and lettering shall be limited to identification of the water company “Tidewater Utilities, Inc.” and the development “Angola Beach and Estates”.**
- **The tower shall be surrounded by a security fence at least eight (8) feet in height.**
- **Structural design of the water tower shall comply at a minimum with the American Water Works Association (AWWA) standards for construction.**

- **The Applicant has offered to allow placement of antenna on the tower by the State, County and area fire companies at no charge.**

There were no public comments and the public hearing was closed

M 628 06 **A Motion was made by Mr. Cole, seconded by Mr. Dukes, to defer action on**
Defer **Conditional Use No. 1694 filed on behalf of Tidewater Utilities, Inc.**
Action

M 628 06 **Motion Adopted: 4 Yea, 1 Absent.**
Defer **Vote by Roll Call: Mr. Phillips, Absent; Mr. Cole, Yea;**
Action on **Mr. Dukes, Yea; Mr. Rogers, Yea;**
C/U **Mr. Jones, Yea**

No. 1694 **Mr. Phillips was out of the room during the vote.**
(continued)

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
(C/U **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL**
No. 1696) **WASTEWATER TREATMENT FACILITY TO BE LOCATED ON A**
 CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER
 HUNDRED, SUSSEX COUNTY, CONTAINING 5.11 ACRES, MORE OR
 LESS” (Conditional Use No. 1696) filed on behalf of Tidewater Utilities.

The Planning and Zoning Commission held a Public Hearing on this application on August 24, 2006 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 24, 2006 for additional information on the application, correspondence received and the Public Hearing before the Commission.)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

An Exhibit Booklet was distributed to the Council.

Mr. Stickels advised that the County Engineering Department does not have any objections to the application.

Dennis Schrader, Assistant County Attorney, was present with Bruce Patrick of Tidewater Environmental Services, Inc. They stated that Tidewater Environmental Services, Inc. is a public wastewater utility regulated by the Public Service Commission; that there is not now currently an existing sanitary sewer district in the area; that they propose to use the existing wastewater treatment and disposal site at Bay Front for the purpose of serving other developments, specifically in the area of Bay Front and Herring Point; that they have a CPCN (Certificate of Public Convenience and Necessity) for Herring Point issued by the Public Service Commission; that the County Engineering Department’s draft for the

Proposed Angola Neck District excluded Bay Front; that the wastewater facility at Bay Front on Camp Arrowhead Road currently has a capacity to treat 250,000 gallons per day which includes rapid infiltration basins; that a pumping station would be constructed at Herring Point to pump the wastewater to the treatment facility at Bay Front; that the facility at Bay Front is surrounded by trees and is greater than 200 feet from any property line; that the expansion project would mirror the existing building; and that if and when County sewer service becomes available, the County may have to compensate Tidewater Utilities, Inc. for the facilities.

**Public
Hearing
(C/U
No. 1696)
(continued)**

Mr. Stickels noted that there is the possibility of doing a temporary connection for the Woods on Herring Creek to help them with their failing septic systems problem and the need to pump daily.

Public comments were heard.

Lee Lindsey, a resident of the Woods on Herring Creek, stated that they have been working with the County on getting a sewer system in the area; that he would support an affordable temporary hook-up because they do have septic problems, pumping out their tanks on a daily basis; and that the County has stated that it would not be until the Year 2010 before a system can be put in place in the area.

There were no additional public comments and the Public Hearing was closed.

**M 629 06
Defer
Action on
C/U
No. 1696**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action on Conditional Use No. 1696 filed on behalf of Tidewater Utilities, Inc.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to adjourn at 9:50 p.m. Motion Adopted by Voice Vote.

**M 630 06
Adjourn**

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

